

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission)	
On Its Own Motion)	
)	02-0426
Revision of 83 Ill. Adm. Code 732)	

**REPLY BRIEF OF
ILLINOIS BELL TELEPHONE COMPANY**

Illinois Bell Telephone Company (“Ameritech Illinois”) submits this reply brief in the above-captioned proceeding.

Ameritech Illinois generally concurs with the initial briefs filed on behalf of the other local exchange carrier parties—Verizon North, Inc. and Verizon South, Inc. (together “Verizon”), Harrisonville Telephone Company (“Harrisonville”) and the Illinois Telecommunications Association (the “ITA”). These parties, like Ameritech Illinois, take the position that federal law does not pre-empt the Commission’s consideration of a work stoppage exception to its service quality rules, nor does Section 13-712 of the Public Utilities Act (the “Act”) prevent the Commission from considering such an exception. See, e.g., Ameritech Illinois Br. at 3-5; Verizon Br. at 3-7; ITA Br. at

1-2; Harrisonville Br. at 1.¹ The Staff of the Illinois Commerce Commission (“Staff”) also agrees that the Commission’s adoption of a work stoppage exception is neither federally pre-empted nor precluded by Section 13-712. Staff Br. at 17-19.

The City of Chicago (the “City”) and CUB do not disagree with the position of Staff and the carriers on these threshold legal issues. As to the preemption issue, the City and CUB note that courts “have been reluctant to infer preemption” of state regulation by the National Labor Relations Act (the “NLRA”). They argue that the regulation of service quality “is, at best, merely of peripheral concern to labor issues.” City/CUB Br. at 4 (emphasis in original). Thus, they conclude, “the Illinois Commerce Commission is well within its authority to determine whether strikes and/or work stoppages should be considered emergency situations for purposes of a customer service issue unrelated to labor negotiations.” Id. at 6. Regarding the constructions of Section 13-712, the City and CUB take no position. Id. The position of the City and CUB is particularly significant, given that they have opposed the adoption of a work stoppage exception and, therefore, might well have been expected to take the opposite position on the pre-emption issue.

The International Brotherhood of Electrical Workers (the “IBEW”) and the People of the State of Illinois (the “AG”) argue that the NLRA and Section 13-712 of the Act preclude the Commission from considering the inclusion of a work stoppage

¹ The carrier parties have argued that the NLRA would affirmatively require a work stoppage exemption from the Commission’s service quality rules. However, that is not the issue assigned by the ALJ for briefing at this time. Ameritech Illinois does not waive that position by declining to brief it at this stage of the proceeding, but instead reserves the right to assert that position at any appropriate point in this proceeding or any future proceeding.

exception to its service quality rules. IBEW Br. at 6-18; AG Br. at 6-9. These parties are wrong for the reasons discussed in the initial briefs of the other parties to the proceeding, and those reasons need not be repeated here.

Therefore, for the reasons set forth in the briefs of the local exchange carrier parties, Staff, the City and CUB, the Administrative Law Judge and the Commission should answer the threshold issues as follows:

1. “Is the Commission preempted from having a rule which grants carriers an exemption from that rule in the event of strikes and/or work stoppages?” (Tr. 8). The answer is “no.”
2. Does Section 13-712 of the Act preclude the Commission from having a rule which grants carriers an exemption from that rule in the event of strikes and/or work stoppages.” (Id.). Again, the answer is “no.”

As a result, this proceeding should move forward to its evidentiary phase.

Respectfully submitted,

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